

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL No. 1456
LITIGATION)	
_____)	CIVIL ACTION: 01-CV-12257-PBS
)	
THIS DOCUMENT RELATES TO)	Chief Mag. Judge Marianne B. Bowler
ALL CLASS ACTIONS)	
_____)	

[PROPOSED]ORDER

AND NOW, this ____ day of August, 2005, upon consideration of plaintiffs' motion to compel defendant Ortho Biotech Products, LP ("OBI") to produce documents and for an extension of discovery, with supporting memorandum, and any response thereto, IT IS ORDERED that:

1. The motion is GRANTED;
2. Defendant OBI shall produce within ten (10) days of entry of this Order, any and all documents introduced and/or used in any legal proceedings in which OBI was a party or witness to prove or demonstrate any oral or written assertions that either OBI or Amgen, their respective employees and/or any third-party acting on behalf of either of the Defendants promoted, sold or marketed Procrit® (OBI) or Epogen® (Amgen) into the other party's reserved U.S. market as defined by their Product Licensing Agreement. These documents include, but are not limited to, any sales, marketing and/or pricing materials referring or relating to reimbursement, AWP, discounts, incentives, rebates, or other remuneration offered to customers or potential customers, as well as any affidavits, declarations, exhibit lists, expert reports, deposition testimony and accompanying

exhibits, trial testimony and accompanying exhibits or other legal material used in the legal proceedings; and

3. Plaintiffs shall have an additional sixty (60) days from the date of receipt of OBI's production per this Order to review the production and take the depositions of any related witnesses, even those who have been previously deposed on other subjects, in connection with such documents and materials.

Hon. Marianne B. Bowler
United States Magistrate Judge